

REMARKS/ ARGUMENTS

Claim 1 and new claims 23-26 remain in this application. Claims 2-3, 8 and 9 have been canceled without prejudice. Claims 4-7 and 10-22 have been withdrawn as the result of an earlier restriction requirement. New claims 23-26 have been added.

In view of the examiner's earlier restriction requirement, applicant retains the right to present claims 4-7 and 10-22 in a divisional application.

Support for amended claim 1 and new claims 23-26 may be found in claims 1-3, 8-13, 17, 18, and 20-22 and pages 6, 10, 11, and 12 of the specification of the original application as filed.

New and amended claims add no new matter.

Claim Rejections Under 35 U.S.C. § 112 ¶ 2

Pending claim 1 stands rejected under 35 U.S.C. 112 ¶ 2 as allegedly being vague, indefinite, and confusing in the recitation of "and/or precursors and cofactors thereof." The Examiner also has alleged that the nature of "cofactors" could not be readily determined and that the nature of "chemical substances" is unclear.

The Applicant respectfully traverses this rejection. Although the Applicant does not concede that the terms "precursors", "cofactors", or "chemical substances" of claim 1 are vague, indefinite, or confusing, in the interests of advancing prosecution, the applicant has amended claim 1 to specifically list the chemical substances of the claimed invention. Accordingly, Applicant believes the rejection under 35 U.S.C. §112, second paragraph, is obviated and the Applicant respectfully requests withdrawal thereof.

Claim Rejections Under 35 U.S.C. § 102 (b)

Pending claim 1 stands rejected under 35 U.S.C. 102 (b) as being allegedly anticipated by WO 99/21565 (“Blass”), U.S. Patent No. 3,963,579 (“Umezawa”), J. Clin. Invest. Vol. 93, June 1994, 2514-2518 (“Bourgeron”), U.S. Patent No. 5,328,701 (“Richmond”), and U.S. Patent No. 6,033,689 (“Waterman”).

Claim 1, as amended, and newly added claims 23 –26 are not anticipated by Blass because Blass requires a sugar in its composition. Specifically, Blass discloses that sugar provides a carbon source for producing acetyl groups, which combine with the Krebs cycle intermediate or precursors of a Krebs cycle intermediate to form citrate in order for the Krebs cycle to continue. Moreover, Blass does not disclose all the elements of new claims 25 or 26. Claims 25 and 26 of the present invention claim a composition of Krebs Cycle chemical substances along with non-Krebs Cycle chemical substances. The composition of Blass is limited to Krebs Cycle chemical substances. Thus, the composition disclosed in Blass does not anticipate claims 1, as amended, or newly added claims 23-26.

Umezawa does not anticipate claim 1, as amended or newly added claims 23 –26 because Umezawa does not disclose a composition and pharmaceutical carrier and does not disclose the chemical substances of claim 1 or claims 23-26. Specifically, Umezawa discloses a process for producing pepstatins comprising adding L-leucine and L-valine to a reaction medium comprising a cell growth-promoting system containing a pepstatin-producing microorganism and an energy source. Umezawa does not disclose a composition of Krebs cycle intermediates. Thus, Umezawa does not disclose every element of claim 1 or claims 23-26 and therefore does not anticipate these claims.

Also, Bourgeron does not anticipate claim 1, as amended, or claims 23-26 because Bourgeron does not disclose a pharmaceutical composition and therefore does not disclose all of

the elements of claim 1 or claims 23 –26. Bourgeron et al. discloses the molecular characterization of the tricarboxylic acid deficiency of fumarase. Claim 1 and claims 23-26 recite a pharmaceutical composition of two or more Krebs cycle molecules.

Richmond does not anticipate claim 1, as amended or newly added claims 23-26 because Richmond discloses an irrigation solution that is not for consumption; thus it does not disclose all of the elements of claim 1. Richmond et al. discloses a tissue irrigation solution containing at least one electrolyte compatible with tissue and a nutrient source including at least one member of the citric acid cycle. Pending claim 1 and claims 23-26 recite a pharmaceutical composition that is in a pharmaceutical carrier that is consumed, comprising tablets, pills, powders for oral suspension, capsules, liquid dosage forms, injections, infusions, inhalations, or suppositories.

Claim 1, as amended or new claims 23-26 are not anticipated by Waterman because Waterman discloses a composition that is not for human consumption, and therefore does not disclose all of the elements of claim 1 or claims 23-26. Waterman et al. discloses an animal feed supplement composition containing whey or whey permeate along with malic acid and fumaric acid. Pending claim 1 and claims 23-26 recite a pharmaceutical composition for human consumption of two or more Krebs cycle molecules. Furthermore, the composition disclosed in Waterman is materially changed from the composition of pending claims 1, 23, and 24.

For the reasons stated above, applicant respectfully submits that claim 1, as amended, and new claims 23-26 are not anticipated by Blass, Umezawa, Bourgeron, Richmond, or Waterman and therefore, request that the rejection under 35 USC § 102(b) be withdrawn.

Claim Rejections Under 35 U.S.C. §§ 102/ 103

Examiner rejected claim 1 under 35 U.S.C. §§ 102 and 103 for allegedly claiming the composition in terms of function. The applicant respectfully submits that neither claim 1, as amended nor new claims 23-26 claim the composition in terms of function. Thus, the rejection under 35 U.S.C. §§ 102 and 103 is obviated. In view of the foregoing remarks, Applicant respectfully requests that the rejection under 102/103 be withdrawn.



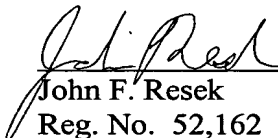
CONCLUSION

Applicants believe that this Application is now in condition for allowance and such action is respectfully requested. If for any reason the Examiner believes that contact with the Applicant's attorney would advance the prosecution of this application, he is invited to contact the undersigned at the number given below.

Respectfully Submitted,

KENYON & KENYON

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John F. Resek
Reg. No. 52,162

KENYON & KENYON
One Broadway
New York, NY 10004
Tel: (212) 425-7200
Fax: (212) 425-5288